



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

David Alpert, Treasurer
New York State Democratic Committee
60 Madison Avenue, Suite 1201
New York, NY 10010

APR 09 2002

Identification Number: C00143230

Reference: Amended 30 Day Post-Special Election Report (1/1/01-7/9/01), received
1/31/02

Dear Mr. Alpert:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Commission Regulations require that a committee disclose the identification of all individuals who contribute in excess of \$200 in a calendar year. (11 CFR §104.3(a)(4)(i)) Identification for an individual is defined as the full name, mailing address, occupation and name of employer. (11 CFR §100.12) Your report discloses contributions from individuals for which the identification is not complete.

You must provide the missing information, or if you are unable to do so, you must demonstrate that "best efforts" have been used to obtain the information. To establish "best efforts," you must provide the Commission with a detailed description of your procedures for requesting the information. Establishing "best efforts" is a three-fold process.

First, your original solicitation must include a clear and conspicuous request for the contributor information and must inform the contributor of the requirements of federal law for the reporting of such information. (11 CFR §104.7(b)(1))

Second, if the information is not provided, you must make one follow-up,

NEW YORK STATE DEMOCRATIC COMMITTEE

PAGE 2

stand alone effort to obtain this information, regardless of whether the contribution(s) was solicited or not. This effort must occur no later than 30 days after receipt of the contribution and may be in the form of a written request or an oral request documented in writing. (11 CFR § 104.7(b)(2))
The request must:

- clearly ask for the missing information, without soliciting a contribution;
- inform the contributor of the requirements of federal law for the reporting of such information, and
- if the request is written, include a pre-addressed post card or return envelope.

Third, if you receive contributor information after the contribution(s) has been reported, you shall either a) file with your next regularly scheduled report, an amended memo Schedule A listing all the contributions for which additional information was received; or b) file on or before your next regularly scheduled reporting date, amendments to the report(s) originally disclosing the contribution(s). (11 CFR §104.7(b)(4))

Please provide the missing information or a detailed description of your procedures for requesting the information. For more information on demonstrating "best efforts," please refer to the Campaign Guide.

-On Schedule A supporting Line 11(a)(i) of the Detailed Summary Page, your report disclosed contributions from individuals that omit the aggregate year-to-date totals. Please amend your report by supplying the information.
11 CFR §104.3(a)(4)(i)

-The outstanding balance of a debt owed to a creditor at the close of one report should be exactly the same as the outstanding balance beginning the period of the next report. This report shows beginning outstanding balances to Adirondack Scenic; Amsterdam News; Dun & Bradstreet; Grand Hyatt; Mailtech Mailing Systems; National Credit Inc.; NCIC Inc; Sawchuck Brown Association; Staples Inc; Urban Kahn & Werlin; Whiteman, Osterman and Hanna; and Zale, Koff Graphics Inc, which are not identical to the ending outstanding balances for the creditors on the 2000 Year End Report. Please amend your report to clarify these discrepancies.

NEW YORK STATE DEMOCRATIC COMMITTEE

PAGE 3

-On Schedule D of your previous report, you disclosed debts owed to the following vendors that have been omitted from this report:

Novell Inc.	Ross Mailing Services
AT&T Teleconference	Rudin Management Corp.
Buffalo Convention Center	Sprint
Communications Services	Central Computer Services
Telecom, Inc.	Chinese American Planning Council
DNC Travel Offset	CHUBB Life America
Fort Orange Press	Conotabs Network
Hanley Sign Co., Inc.	Harper Collins Publishers
ImageCore Ltd.	NY Native Advertising
Integrity Distribution	Payco/Mobile Comm.
National Credit Service	Personal Supply Co.
NCA	NYNEX
Oxford Health Plans	PSI Net/Pipeline
Picotte Companies	Stonewall News
Pier Waterfront Café	The November Group
Public Works	Venture Graphics
Radisson Suites Hotel Buffalo	Filtered Water Service Corp.
Specialized Audiovisual, Inc.	Helmsley Spear
Mobile Media	Sheraton Hotel and Towers
Time Warner Cable of NYC	Unity Environmental Corp.
Eskay Business Systems	

Please note that you should continue to report all debts involved in a debt settlement plan until notified by the Commission that the plan complies with the Act and Regulations. (11 C.F.R. §104.11) Please amend your report to include these debts on Schedule D supporting Line 10 of the Summary Page.

-Itemized disbursements must include a brief statement or description of why the disbursements were made. Please amend Schedule A supporting Line 15, Schedule B supporting Lines 21(b) and 29, and Schedule H4 supporting Line 21(a) of your report to clarify the following descriptions: expense refund and supplies. For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).

-Schedule B supporting Line 29 of your report discloses a disbursement for an apparent refund or rebate to your non-federal account for a previously

NEW YORK STATE DEMOCRATIC COMMITTEE
PAGE 4

allocated expense. Please be advised the refund or rebate must be allocated between the federal and non-federal accounts according to the same allocation ratio used to allocate the original disbursement. Furthermore, the federal account must transfer the non-federal portion to the non-federal account using one of two methods.

The method of reporting described in Advisory Opinion 1995-22 allows a committee to itemize the refund or rebate as a negative entry on Schedule H4. Alternatively, a committee may disclose the receipt of the refund or rebate into the federal account on Schedule A supporting Line 15, and the transfer of the non-federal account's share to the non-federal account on Schedule H4. Please refer to the enclosed sample of properly reported refunds and rebates of allocable activity and amend your report as appropriate.

-Your report discloses in-kind contributions ("donations") from corporations on Schedule H4, supporting Line 21(a) of the Detailed Summary Page (pertinent portions attached). Pursuant to Advisory Opinion 1992-33, the Commission concluded that a "national party committee may accept corporate in-kind donations in connection with fundraising activities" as long as "the federal share of goods or services is paid or transferred to the non-federal account in advance" of the acceptance of the corporate in-kind donations by the federal account.

Advisory Opinion 1992-33 also discloses a detailed method for reporting the receipt and use of in-kind contributions as follows:

1. The transfer of the in-kind corporate contribution from the non-federal account to the federal account should be disclosed on Schedule H3. The itemization on Schedule H3 should include the date the Committee received the in-kind contribution, the amount of the contribution and the fundraising event involved.
2. The use or expenditure of in-kind corporate contributions should be disclosed on Schedule H4 as non-federal share disbursements. The itemization should provide the same donor identification information required on a Schedule A for in-kind contributions for Federal elections.
3. A second entry on Schedule H4 should then disclose the advance or

NEW YORK STATE DEMOCRATIC COMMITTEE

PAGE 5

contemporaneous payment of the federal account's share of the in-kind corporate contribution to the non-federal account.

Please amend your report to properly disclose the in-kind corporate contributions received by your committee (example enclosed).

-On Schedule H4 supporting Line 21(a) of the Detailed Summary Page, you have failed to include the purpose of the corporate in-kind received from Cablevision Systems Corporation. Please amend your report to include this missing information.

-Schedule A supporting Line 15 of the Detailed Summary Page discloses a refund(s) or rebate(s) of what appears to be a previously disclosed allocable expense(s) from US News and World Report, Poland Spring Water, and Fleet Bank. Please be advised that when a committee receives a refund or rebate of an allocable expense, it must be allocated between the federal and non-federal accounts according to the same allocation ratio used to allocate the original disbursement. Furthermore, the federal account must transfer the non-federal portion to the non-federal account and disclose this transfer-out on Schedule H4. Your report does not appear to disclose a transfer-out of the non-federal portion of this refund(s) or rebate(s). Please provide clarification regarding this apparent omission.

-On Schedule H4 supporting Line 21(a), you disclose receiving a corporate in-kind from Cablevision Systems Corporation on 1/22/01. You also disclose that the federal share of the corporate in-kind was transferred on 1/23/01. Pursuant to Advisory Opinion 1992-33, the Commission concluded that a party committee may accept corporate in-kind contributions in connection with fundraising activities as long as the federal share of goods and services is paid to the non-federal account *in advance or on receipt* of the acceptance of the corporate in-kind donations.

Although the Commission may take further legal action concerning the acceptance of prohibited in-kind contributions, your prompt action in transferring the federal share to the non-federal account will be taken into consideration.

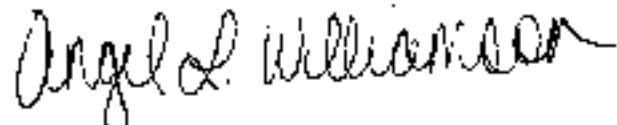
A response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days

NEW YORK STATE DEMOCRATIC COMMITTEE

PAGE 6

of the date of this letter. Electronic filers must file amendments in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530 (at the prompt press 1, then press 2 to reach the Reports Analysis Division). My local number is (202) 694-1130.

Sincerely,



Angel L. Williamson
Senior Reports Analyst
Reports Analysis Division

DISBURSEMENT SCHEDULE H4 (FEC Form 3X)
JOINT FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE

PAGE 206 / 423
 FOR LINE 2(a) OF FORM 3X

NAME OF COMMITTEE (In Full)

NEW YORK STATE DEMOCRATIC COMMITTEE

A. Full Name (Last, First, Middle Initial)

Business Wirs

Mailing Address

P.O. Box 60270

City

State

Zip Code

Los Angeles

CA

90060-0270

Type of Allocated Activity:

Admin/Voter Drive

Fundraising

Exempt

Direct Candidate Support

Event Year-To-Date

1196795.15

Purpose/Event:

Newspaper & Subscription

Category/
Type

Description:

Newspaper & Subscription

FEDERAL SHARE

+

NON-FEDERAL SHARE

=

TOTAL AMOUNT

12.50

87.50

100.00

Transaction ID: H4.5700

A. Full Name (Last, First, Middle Initial)

Cablevision Systems Corporation

Mailing Address

1111 Stewart Avenue

City

State

Zip Code

Bethpage

NY

11714-3581

ORG

Category/
Type

Purpose/Event:

In Kind Contribution 100% NF

Description:

In Kind Contribution 100% NF

FEDERAL SHARE

+

NON-FEDERAL SHARE

=

TOTAL AMOUNT

0.00

30000.00

30000.00

Transaction ID: H4.5426

A. Full Name (Last, First, Middle Initial)

Cablevision Systems Corporation

Mailing Address

1111 Stewart Avenue

City

State

Zip Code

Bethpage

NY

11714-3581

ORG

Category/
Type

Purpose/Event:

trans-non fed share-above trans.

Description:

trans-non fed share-above trans.

FEDERAL SHARE

+

NON-FEDERAL SHARE

=

TOTAL AMOUNT

3750.00

0.00

3750.00

Transaction ID: H4.5427

SUBTOTAL of Joint Federal and Non-Federal Activity This Page

FEDERAL SHARE

+

NON-FEDERAL SHARE

=

TOTAL AMOUNT

33850.00

TOTAL This Period (last page for each line only) Federal share to 21(a)(i) and non-Federal share to 21(b)(i))

FEDERAL SHARE

TOTAL AMOUNT

NON-FEDERAL SHARE

TOTAL This Period for the Non-Federal Share
(used for line 31 of the detailed summary page)

11. Prohibited In-Kind Donations for Allocable Activities

While contributions from corporations, labor organizations and federal government contractors are prohibited under federal law, they are permissible under some state laws. If that is the case, such donations may be accepted by a nonfederal account for strictly nonfederal activity. However, the situation is more complicated when donations of goods or services from such sources are made in connection with allocable activity, such as a fundraiser at which both federal and nonfederal funds are collected.

In AO 1992-33, the Commission explained how a committee can legally accept an in-kind donation from a prohibited source in connection with an allocable administrative or fundraising activity. Note that the Commission has not addressed the receipt of in-kind donations from prohibited sources for the other types of allocable expenses (i.e., generic voter drives and candidate support activity).

Advance Payment of Federal Share

To avoid the receipt of a prohibited contribution by the federal account, that account must pay the nonfederal account for the federal share of the in-kind donation. This payment—a transfer to the nonfederal account—must be made in advance of or on the date the goods or services are received.

Per-Transaction Transfers

The federal transfer may be made on a per-transaction basis—that is, shortly before or on the same day the in-kind donation is received.

Escrow Transfers

Alternatively, the federal account may make bulk transfers to cover the federal share of anticipated in-kind donations. Under this ‘escrow’ arrangement, a committee makes a good faith estimate of the amount of in-kind donations that it expects to receive and transfers sufficient funds from the federal account to cover the federal share.

Adjustments

Should the federal account pay more than its share of an in-kind donation, adjustment transfers from the nonfederal account are permissible.

Basic Reporting of In-Kind Donations: Example

On October 1, a state party committee receives a \$5,000 in-kind donation of flowers from a corporation for a federal/nonfederal fundraiser (“Chairman’s Gala”). The estimated allocation ratio for the fundraiser is 50 percent federal and 50 percent nonfederal. That same day, the federal account transfers its share of the in-kind donation (\$2,500) to the nonfederal account.

Required Forms

- Schedule H3—Transfers from Nonfederal Account
- Schedule H4—Payments for Allocable Expenses

Schedule H3—Receipt of In-Kind Donation

The committee reports the receipt of the in-kind donation as a transfer from the nonfederal account for the “Chairman’s Gala” fundraiser. The date used here is the date the committee received the flowers.

RECEIPT OF IN-KIND DONATION (H3)

NAME OF ACCOUNT Nonfederal account	DATE OF RECEIPT 10-1-90		\$1,000.00
	AMOUNT OF TRANSFER RECEIVED	PERCENTAGE OF TRANSFER RECEIVED	
1. Total Administrative Cost			
4. Nonfederal Total (Excl. Admin. Cost)			
a. 100% of b. 50%			
b. 50% of a. 100%			
c. 50% of a. 100%			
d. 50% of a. 100%			
e. 50% of a. 100%			
f. 50% of a. 100%			
g. 50% of a. 100%			
h. 50% of a. 100%			
i. 50% of a. 100%			
j. 50% of a. 100%			
k. 50% of a. 100%			
l. 50% of a. 100%			
m. 50% of a. 100%			
n. 50% of a. 100%			
o. 50% of a. 100%			
p. 50% of a. 100%			
q. 50% of a. 100%			
r. 50% of a. 100%			
s. 50% of a. 100%			
t. 50% of a. 100%			
u. 50% of a. 100%			
v. 50% of a. 100%			
w. 50% of a. 100%			
x. 50% of a. 100%			
y. 50% of a. 100%			
z. 50% of a. 100%			

The Schedule H3 shows the nonfederal account's receipt of the \$5,000 in-kind donation of flowers on October 1.

"Disbursement" of In-Kind Donation (H4)

Like in-kind contributions, in-kind donations must be reported as both receipts and disbursements so as not to inflate the cash-on-hand balance. (The disbursement side reflects the use or "expenditure" of the resources.) Schedule H-19 used for the disbursement entry, which shows the \$5,000 in-kind donation as a 100 percent nonfederal disbursement. The donor's name and address is disclosed in the box generally used for payees.

Transfer from Federal Account (H4)
The second entry on Schedule H4 shows the contemporaneous transfer of \$2,500 (the federal share of the donation) from the federal account to the nonfederal account. The explanation of the transfer is described in the "Purpose" box, with a reference to the previous entry.

Alternative Reporting Method

To minimize entries and avoid duplication, a committee may use alternative methods to record transactions relating to in-kind donations.

The committee may use one entry on Schedule H3 to show the receipt of all in-kind donations made within the same reporting period for a particular fundraising program or event (or administrative activity).

The committee may also use one entry on Schedule H4 to show total federal payments (transfers) made on the same day for the federal share of in-kind donations.

Exemplo

Example: A committee receives two in-kind donations from prohibited sources for a mixed federal/nonfederal fundraising event. "July Fundraiser".

- Invitations donated by XYZ Printers, Inc. (value: \$3,000) received on July 1; and
 - Balloons donated by ABC Balloons, Inc. (value: \$1,000) received on July 15.

The fundraising ratio for "July Fundraiser" is 50 percent federal, 50 percent nonfederal. The federal account transfers its \$2,000 share of the two donations on July 1.

DISBURSEMENT OF IN-KIND DONATION; FEDERAL TRANSFER (H4)

The first entry shows the "exbuersement" of the \$5,000 in-kind donation by the nonfederal account. The second entry shows the federal account's transfer of its share of the donation (50 percent or \$2,500) to the nonfederal account.

Schedule H3—Receipt of In-Kind Donations

The committee uses one entry on Schedule H3 to show the total In-kind donations for "July Fundraiser" received during the reporting period. The "date of receipt" shows the period during which the committee received the contributions. The "July Fundraiser" entry cross-references the Schedule H4 entries showing the "disbursement" of the donations and the identity of the recipients.

RECEIPT OF IN-KIND DONATIONS (H3)

NAME OF ACCOUNT S. L. Johnson, Inc., Inc.		DATE OF RECEIPT 10-10-1993	\$10,000.00
RECEIPT NUMBER: 10000000000000000000			
AMOUNT DUE ACCOUNT		SOFT PAD-BLANKET HAD-UP	EMERG. ADV REQUEST CASHOUT REPORT
1 Cash Advances (Nov 2004)			
4 Credit Card Account Settlements (Nov 2004)			
5			
6			
7			
8			
9			
10			

The \$4,000 in-kind transfer represents a \$3,410 donation received on July 7 and a \$1,000 donation received on July 15. The entry notes the Schedule H4 entries where information on the donations is available.

Schedule H4—"Disbursement" of Donations; Federal Transfer
 Schedule H4 shows the "disbursement" of the two in-kind donations by the nonfederal account, each entry identifying the donor and the dates the donations were received.

The third entry shows the federal account's payment for its 50 percent share of the two donations and the date of the transfer to the nonfederal account. The entry refers to the previous two entries to show the transfer relates to those transactions.

"Escrow" Transfer

Advance transfers from the federal account to the nonfederal account to pay the federal share of anticipated in-kind donations are reported on Schedule H3. If known, the particular activity (fundraising program/event or administrative) to which the transfer applies should be noted. If the corresponding in-kind donations are received in a later reporting period, it is understood that the Schedule H3 entry will not be able to list the related Schedule H4 donor entries (showing the nonfederal "disbursement" of the donations).

DISBURSEMENT OF IN-KIND DONATIONS; FEDERAL TRANSFER (H4)

DISBURSEMENT SCHEDULE H4 IN-KIND DONATIONS		JOINT FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE				PAGE OF FORM 214
NAME OF COMMITTEE	STATE, CITY OR COUNTRY	PERIOD FOR WHICH REPORT IS MADE	DATE	TOTAL AMOUNT DISBURSED	FEDERAL SHARE	
AMERICAN WOMEN'S CENTER N.Y.C. Chapter Incorporated 1010 Madison Avenue City: State ZIP	PERIODIC FUNDRAISING ACTIVITIES	7-1-95	\$2,000.00	0	NONFEDERAL SHARE	
CATEGORY: ADMINISTRATIVE EXPENSES REPORT PERIOD: 5-15-95-6-30-95	PERIODIC FUNDRAISING ACTIVITIES	DATE	TOTAL AMOUNT	FEDERAL SHARE	NONFEDERAL SHARE	
AMERICAN WOMEN'S CENTER Hartford, Inc. 200 Oak Street City: State ZIP	PERIODIC FUNDRAISING ACTIVITIES	7-15-95	\$1,000.00	0	\$1,000.00	
CATEGORY: ADMINISTRATIVE EXPENSES REPORT PERIOD: 5-15-95-6-30-95	PERIODIC FUNDRAISING ACTIVITIES	DATE	TOTAL AMOUNT	FEDERAL SHARE	NONFEDERAL SHARE	
AMERICAN WOMEN'S CENTER State Party Committee/ Nonfederal account 443 Lexington Ave. City: State ZIP	PERIODIC FUNDRAISING ACTIVITIES	7-1-95	\$2,000.00	\$2,000.00	0	
CATEGORY: ADMINISTRATIVE EXPENSES REPORT PERIOD: 5-15-95-6-30-95	PERIODIC FUNDRAISING ACTIVITIES	DATE	TOTAL AMOUNT	FEDERAL SHARE	NONFEDERAL SHARE	

The first two entries on this schedule provide information on the in-kind donations received and "disbursed" by the nonfederal account. The third entry shows that the federal account's 50 percent share of the donations was transferred to the nonfederal account on July 1. The entry cross-references the related entries.

10. Refunds and Rebates of Allocable Expenses

If a committee receives a refund or a rebate of an allocable expense, the refund or rebate must be deposited in the federal or allocation account. The refund or rebate must then be allocated between the federal and nonfederal accounts according to the same allocation ratio used to allocate the original disbursement. The federal account must transfer the nonfederal portion to the nonfederal account.

Example

A committee receives a \$400 rebate on office equipment from the Acme Office Store. The original purchase was an administrative expense allocated according to the following ratio: 75 percent federal; 25 percent nonfederal.

Reporting Method 1 illustrates how this rebate would be reported according to the method approved in Advisory Opinion (AO) 1995-22. Reporting Method 2 shows how the rebate would be reported under an alternative method.

Reporting Method 1

Using the method of reporting described in AO 1995-22, the committee discloses the receipt of the rebate and the federal and nonfederal shares on Schedule H4. The amounts are negative entries subtracted from total shared federal and nonfederal disbursements for the reporting period (disclosed on Lines 21a(i) and (ii) of the Detailed Summary Page).

Reporting Method 2

Under the alternative method, the committee reports the receipt of the \$400 rebate under the category "Offset to Operating Expenditures" on Line 15 of the Form 3X Detailed Summary Page. The committee uses Schedule H4 to disclose the federal account's \$100 transfer to the nonfederal account for the nonfederal share.

ALLOCATION OF REBATE (H4) (METHOD 1)

DISBURSEMENT SCHEDULE H4 (Form 3X-201)		JOINT FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE				PAGE 1 of 1 FOR LINE 21a
NAME OF COMMITTEE State Party Committee						
AMOUNT RECEIVED & DEPOSITED Acme Office Store 2024 Level One City, State ZIP	PURPOSE Purchase	DATE 3/15/24	TOTAL AMOUNT (\$400.00)	FEDERAL SHARE (\$300.00)	NONFEDERAL SHARE (\$100.00)	
CATEGORIES ADMINISTRATIVE EXPENSE NONFEDERAL						

This entry shows the receipt of the \$400 rebate and the federal and nonfederal allocated shares. All the amounts are in parentheses to indicate that they are negative entries. That is, the amounts are subtracted from the corresponding Schedule H4 totals (thus reducing the federal and nonfederal shares of disbursements). The year-to-date total is also reduced by the amount of the rebate.

RECEIPT OF REBATE (A/LINE 15) (METHOD 2)

SCHEDULE A ITEMS OF RECEPTS		ITEMS OF DISBURSEMENTS		PAGE 1 of 1 FOR LINE 21a
NAME OF COMMITTEE State Party Committee	AMOUNT RECEIVED & DEPOSITED Acme Office Store 2024 Level One City, State ZIP	AMOUNT OF DISBURSEMENT Offset to operating expenditures (\$400.00)	DATE 3/15/24	

The \$400 rebate is reported as a receipt under the category "Offset to operating expenditures" (Line 15 of the Form 3X Detailed Summary Page). The rebate has to be itemized on Schedule A because it exceeds \$200.

TRANSFER OF NONFEDERAL SHARE (H4) (METHOD 2)

DISBURSEMENT SCHEDULE H4 (Form 3X-201)		JOINT FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE				PAGE 1 of 1 FOR LINE 21a
NAME OF COMMITTEE State Party Committee						
AMOUNT RECEIVED & DEPOSITED Acme Office Store 2024 Level One City, State ZIP	PURPOSE Nonfederal share of rebate - ex. Schedule H4	DATE 3/15/24	TOTAL AMOUNT (\$100.00)	FEDERAL SHARE (\$100.00)	NONFEDERAL SHARE (\$0.00)	
CATEGORIES ADMINISTRATIVE EXPENSE NONFEDERAL						

Based on the 75/25 allocation ratio for administrative expenses, the federal account must return \$100 (25 percent of the rebate) to the nonfederal account. The transfer to the nonfederal account is shown on Schedule H4. The entry explains the reason for the transfer and includes a cross-reference to the Schedule A where the rebate is itemized.

